

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 417 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

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2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

IBRAHIM MUSTUFA

Versus

STATE OF GUJARAT

Appearance:

MR AD SHAH for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

SERVED for Respondent No. 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 10/04/97

ORAL JUDGEMENT

With respect to an unfortunate incident of 4th June, 1982 in the town of Viramgam, accused-respondent No.2-Prabhashanker Master was tried for offence under Section 153, I.P.C. The learned Magistrate, after hearing the parties, came to the conclusion that the case

was not proved and, therefore, acquitted the accused. The learned Magistrate, after recording the acquittal, issued a notice to the petitioner and by order dated 4th June, 1983, directed to pay compensation of Rs.25/- to the accused-respondent No.2.

It is contended by Mr. A.D. Shah, learned counsel for the petitioner that the accused respondent was acquitted on account of the lapse of the prosecution. The prosecution did not examine the Investigating Officer and some of the important witnesses. On this basis, it cannot be said that the complaint lodged by the petitioner was false.

Having gone through the impugned order, in my view, there is substance in the contention of the petitioner. There is no justifying ground which called for any direction for compensation to be paid by the complainant to the accused.

In view of the aforesaid, this Criminal Revision Application is allowed and the order of the learned Judicial Magistrate, First Class, Viramgam, dated 4th June, 1983, directing the petitioner to pay fine of Rs.25/- to the accused-respondent No.2 is quashed and set aside. Rule made absolute.

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